

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Eric R. Searles

v.

Civil No. 02-cv-360-SM

Superintendent, Hillsborough County
Jail, et al.

REPORT AND RECOMMENDATION

Plaintiff's "Emergency Injunction" request has been referred to me for a Report and Recommendation. This is his fourth "emergency" motion for injunctive relief (see document nos. 8, 39, 53 and 64). The first three were denied, two of them after full hearings.

There are several reasons why this request should be denied without further time or effort by defendants, defense counsel or the court. First, Mrs. Healy, Captain Cusson and "jail employees or staff of jail #5" are not defendants in this case. Second, his denial of access to the law library was initially due to his tuberculosis quarantine and then due to his restricted housing upon conviction of his numerous disciplinaries. He does have access to case law by request. Further, he has not pled or shown actual injury. Third, the video of his cell at the time of his alleged "beating" does not show the inside of the cell but it

does show that the officers were in the cell so briefly that Searles' claims appear improbable. They certainly are not a basis to require the prison to video all cells.

Finally, he has not exhausted administrative remedies.

I recommend that the motion be denied.

Any objections to this Report and Recommendation must be filed within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the district court's order. See Unauthorized Practice of Law Comm. v. Gordon, 979 F.2d 11, 13-14 (1st Cir. 1992); United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986).

James R. Muirhead
United States Magistrate Judge

Date: September 7, 2005

cc: Eric R. Searles, *pro se*
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Carolyn M. Kirby, Esq.